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BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement of
Revoked Certificate of:

RICHARD PAUL MAHONEY, Ph.D.
P.O. Box 59391
Norwalk, CA 90652

OAH No. N-2000100113

Petitioner.

DECISION

This matter was heard on November 3, 2000, before the Board of Psychology, Dr. Martin Greenberg, Ph.D., President, presiding, in Fresno, California. Catherine B. Frink, Administrative Law Judge, Office of Administrative Hearings, State of California, sat with the Board

Isa Rodriguez, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Petitioner Richard Paul Mahoney, Ph.D. was present and represented himself.

FACTUAL FINDINGS

1. The Board of Psychology, Department of Consumer Affairs, State of California ("the Board") issued Psychologist License No. PSY 6909 to Richard Paul Mahoney, Ph.D. ("petitioner") on March 23, 1981.
2. Effective March 15, 1991, the Board revoked petitioner's license after an administrative hearing in Accusation Case No. D-3774. The Board's disciplinary action, pursuant to Business and Professions Code sections 2960(j) (gross negligence) and 2960(n) (sexual misconduct) was based upon the Board's determination that petitioner had become

involved sexually with two female patients. In one case, the female patient was a sexual surrogate assisting in the treatment of one of petitioner's other patients; in the second case, the female patient was examined by petitioner as part of a court-ordered child custody evaluation.

3. On August 31, 2000, petitioner signed a Petition for Penalty Relief in which he requested reinstatement of his revoked certificate. The Petition and supporting documents were filed with the Board on September 5, 2000. Petitioner has not previously applied for reinstatement of his revoked certificate.

4. Petitioner believes that circumstances existing around the time of his sexual misconduct in 1985 and 1986 contributed to his exercise of extremely poor judgment in becoming sexually involved with these two patients. Petitioner noted the death of his father, the suicide of a 16-year-old patient, and family stress, including marital discord, significant financial problems, and sleep deprivation as a result of caring for his young children. Petitioner feels these issues have been resolved and would not be factors affecting him if he were to regain his license.

5. Petitioner began treatment with his family physician for depression in 1985, for which he was prescribed anti-depressant medication. Petitioner also began weekly therapy sessions to deal with relationship issues and other stressors in his life. Petitioner continued therapy for 2 ½ years and has had follow-up sessions periodically. Petitioner continued to take anti-depressant medication until the summer of 1997. Petitioner has not had a recurrence of significant depression after ceasing the medication.

6. As a consequence of the Board's disciplinary action against petitioner, he lost his private practice in Sacramento. In June of 1990, petitioner became employed full-time as a staff psychologist with the California Youth Authority. Petitioner was able to continue in this position as an unlicensed psychologist after his certificate was revoked. Petitioner has functioned as a forensic psychologist reporting to the Superior Courts of California as well as the Youthful Offenders Parole Board. He has treated wards of the Youth Authority and trained the peace officers on staff. He has been candid with his colleagues about the revocation of his psychologist certificate and the surrounding circumstances.

Petitioner was promoted to the position of Senior Psychologist and has been instructed to create an in-patient psychiatric treatment program for wards of the California Youth Authority at the Hemen G. Stark Youth Correctional Facility. Petitioner seeks to have his license reinstated in order to remain in that position. Eventually, after petitioner retires from employment at the California Youth Authority, he might be interested in engaging in some private practice, and to act as a consultant to the courts performing evaluations of adults.

7. Petitioner has engaged in continuing education through his employment. He has addressed boundary issues in his therapy sessions. He is currently operating effectively

as a clinician in a multidisciplinary setting as a member of the Clinical Health Services Staff at the California Youth Authority.

8. Petitioner is divorced. He has four children, whom he sees weekly, and for whom he provides financial support.

9. Petitioner has produced sufficient evidence of rehabilitation to demonstrate that he is capable of practicing as a licensed psychologist without harm to the public. It would not be contrary to the public interest to reinstate petitioner's certificate to practice as a psychologist in California, with appropriate terms and conditions of probation to protect the public.

LEGAL CONCLUSIONS

Good cause is established to reinstate petitioner's certificate to practice as a psychologist at this time, subject to the probationary Order set forth below.

ORDER

The petition of Richard Paul Mahoney, Ph.D. for reinstatement of revoked certificate is GRANTED. Psychologist License Number PSY 6909 issued to petitioner Richard Paul Mahoney, Ph.D. is hereby reinstated. Said license is REVOKED; however, the revocation is STAYED and petitioner is placed on probation for five (5) years, subject to the terms and conditions set forth below.

1. Within 90 days of the effective date of this Decision, petitioner shall submit to the Board or its designee for prior approval, the name and qualifications of a psychologist who has agreed to serve as a practice monitor/billing monitor. The monitor shall 1) be a California-licensed psychologist with a clear and current license; 2) have no prior business, professional, personal or other relationship with petitioner; and 3) not be the same person as petitioner's therapist. The monitor's education and experience shall be in the same field of practice as that of the petitioner.

Once approved, the monitor shall submit to the Board or its designee a plan by which petitioner's practice shall be monitored. Monitoring shall consist of a least one hour per week of individual face to face meetings and shall continue during the entire probationary period. The petitioner shall provide the monitor with a copy of this Decision and access to petitioner's fiscal and/or patient records. Petitioner shall obtain any necessary patient releases to enable the monitor to review records and to make direct contact with patients. Petitioner shall execute a release authorizing the monitor to divulge any information that the Board may request. It shall be petitioner's responsibility to assure that the monitor submits written reports to the Board or its designee on a quarterly basis verifying that monitoring has taken place and providing an evaluation of petitioner's performance.

Petitioner shall notify all current and potential patients of any term or condition of probation which will affect their therapy or the confidentiality of their records (such as this condition which requires a practice monitor/billing monitor). Such notifications shall be signed by each patient prior to continuing or commencing treatment.

If the monitor quits or is otherwise no longer available, petitioner shall obtain approval from the Board for a new monitor within 30 days. If no new monitor is approved within 30 days, petitioner shall not practice until a new monitor has been approved by the Board or its designee. During this period of non-practice, probation will be tolled and any period of non-practice shall not apply to the reduction of this probationary period. Petitioner shall pay all costs associated with this monitoring requirement. Failure to pay these costs shall be considered a violation of probation.

2. Petitioner shall not practice psychology until petitioner has passed the jurisprudence examination and has been so notified by the Board or its designee in writing. During this period of non-practice, probation is tolled and this period of non-practice will not apply to the reduction of this probationary period. The jurisprudence examination is given in January and June each year. It is petitioner's responsibility to contact the Board in writing to make arrangements for such examination. Petitioner shall pay the established examination fee.

3. Petitioner shall take and successfully complete not less than 20 hours of coursework each year of probation in the following areas: law and ethics, boundary issues, treatment of sexual dysfunction, and custody issues. Coursework must be preapproved by the Board or its designee. All coursework shall be taken at the graduate level at an accredited educational institution or by an approved continuing education provider. Classroom attendance is specifically required; correspondence or home study coursework shall not count toward meeting this requirement. The coursework must be in addition to any continuing education courses that may be required for license renewal.

Within 90 days of the effective date of this Decision, petitioner shall submit to the Board or its designee for its prior approval a plan for meeting the educational requirements. All costs of the coursework shall be paid by the petitioner.

4. Within 90 days of the effective date of this Decision, petitioner shall submit to the Board or its designee for prior approval a course in laws and ethics as they relate to the practice of psychology. Said course must be successfully completed at an accredited educational institution or through a provider approved by the Board's accreditation agency for continuing education credit. Said course must be taken and completed within one year from the effective date of this Decision. The cost associated with the law and ethics course shall be paid by the petitioner.

5. Petitioner shall pay the costs associated with probation monitoring each and every year of probation. Such costs shall be payable to the Board of Psychology at the end of each fiscal year (July 1 – June 30). Failure to pay such costs shall be considered a violation of probation.

The filing of bankruptcy by petitioner shall not relieve petitioner of the responsibility to repay probation monitoring costs.

6. Petitioner shall obey all federal, state, and local laws and all regulations governing the practice of psychology in California including the ethical guidelines of the American Psychological Association. A full and detailed account of any and all violations of law shall be reported by the petitioner to the Board or its designee in writing within seventy-two (72) hours of occurrence.

7. Petitioner shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation.

8. Petitioner shall comply with the Board's probation program and shall, upon reasonable notice, report to the assigned District Office of the Medical Board of California or other designated probation monitor. Petitioner shall contact the assigned probation officer regarding any questions specific to the probation order. Petitioner shall not have any unsolicited or unapproved contact with 1) complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert evaluators.

9. Petitioner shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

10. Petitioner shall notify the Board in writing, through the assigned probation officer, of any and all changes of employment, location, and address within 30 days of such change.

11. In the event petitioner should leave California to reside or to practice outside the State or for any reason should petitioner stop practicing psychology in California, petitioner shall notify the Board or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which petitioner is not engaging in any activities defined in Sections 2902 and 2903 of the Business and Professions Code. Periods of temporary or permanent residency or practice outside California or of non-practice within California will not apply to the reduction of this probationary period, although the Board may allow petitioner to complete certain terms of probation that are not associated with active practice.

12. If petitioner is licensed as a psychologist, he shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees during the course of this probation. Any such supervisorial relationship in existence on the effective date of this probation shall be terminated by petitioner and/or the Board.

13. If petitioner violates probation in any respect, the Board may, after giving petitioner notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against petitioner during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against petitioner.

14. Upon successful completion of probation, petitioner's license shall be fully restored.

This decision shall become effective on January 5, 2001.

Dated: December 6, 2000

BOARD OF PSYCHOLOGY

By: M. Greenberg
MARTIN GREENBERG, Ph.D.
President